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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RALPH DAVID BRINTON,

Defendant.

Case No. 2:19cr80

NOTICE OF CHAPTER 7 EXPERT
WITNESS

Judge Robert J. Shelby

Plaintiff United States of America, in compliance with its obligations under Federal Rule of Criminal Procedure 16(a)(1)(E), to provide notice and a summary of the testimony of expert witnesses whom the government currently intends to use during its case-in-chief at trial,¹ Please be advised of the following witness, her qualifications, and her anticipated testimony:

Peggy Hunt.

A. **Qualifications (Fed. R. Evid. 702):** Ms. Hunt's qualifications as a trustee in

¹ With respect to the contemplated testimony of the summary witness, the government is not representing that she will be called as an expert or that she will be offering expert testimony as defined by Fed. R. Evid. 702 and 703. Out of an abundance of caution, however, and to provide defense counsel with advance notice of the scope of her anticipated testimony, the government is providing the same type of notice and summary with respect to this witness as is provided for expert witnesses.

bankruptcy are set forth in detail in the resume attached hereto. Ms. Hunt is an attorney who has worked in the area of bankruptcy since 1989 both as a judicial law clerk and as a lawyer. For the past 8 years, she has been a Chapter 7 Trustee in the District of Utah. Ms. Hunt's practice has included representing both creditors and debtors as well as other trustees. Although the government expects that Ms. Hunt's testimony will primarily be that of a percipient witness (i.e., what she, as an attorney involved in bankruptcy law and as a trustee, knows) and a fact witness, some of her testimony may, arguably, fall within the ambit of Rules 702-703 of the Federal Rules of Evidence. Accordingly, the government is providing a summary of that testimony.

B. **Opinion Testimony (Fed R. Evid. 704):** Ms. Hunt is expected to testify, among other things, as follows:

1. Explain the terms that are frequently used in reference to a bankruptcy filing, such as a debtor, a creditor, an asset, a liability, an estate, an automatic stay, a trustee and the discharge of debt.

It is anticipated that Ms. Hunt will explain that the filing of a bankruptcy petition results in an "automatic stay", and what the implications of that means, i.e., it prevents creditors from pursuing the debtor for any outstanding debts or foreclosing on the debtor's assets without first obtaining relief from the bankruptcy court. Ms. Hunt is expected to explain that certain debts are dischargeable in bankruptcy and that the successful completion of a chapter 7 case by an individual debtor results in the debtor "discharging" all dischargeable debt.

2. Explain the various bankruptcy chapters and the differences between the chapters. She will also identify and explain the bankruptcy documents which a debtor must file in a chapter 7 case - the Petition, Schedules of Assets and Liabilities ("Schedules") and Statement of

Financial Affairs - and that the debtor must sign each of these documents under penalty of perjury. Ms. Hunt will discuss the purpose of and importance of the First Meeting of Creditors meeting. Ms. Hunt will explain how a trustee uses the information the debtor provides on each of these documents and under oath at the meeting of creditors to administer the bankruptcy estate.

Ms. Hunt is also expected to explain the various Schedules the debtor is required to file in a bankruptcy and what the terminology on those schedules mean. Specifically, Ms. Hunt is expected to explain what information the debtor is required to provide on Schedule A - Real Property and Schedule B - Personal Property. Ms. Hunt will explain how she, as a trustee, uses the information that the debtor provides on these schedules to determine whether there are any assets that she can use to liquidate, thereby resulting in a distribution to creditors. She is also expected to explain Schedules D - F and the difference between secured claims (Schedule D), unsecured priority claims (Schedule E) and unsecured non-priority claims (Schedule F).

3. The disclosure obligations of a debtor and the proper duties of a trustee.

It is anticipated that Ms. Hunt will testify how false statements or omissions on a Petition, Schedule of Assets and Liabilities, Statement of Financial Affairs or other bankruptcy documents impact the first meeting of creditors and the bankruptcy system as a whole. It is expected that Ms. Hunt will explain that the quid pro quo of allowing debtors to file for bankruptcy and to get a fresh start, relieved of their debt, is that debtors must be truthful and provide complete and accurate information on their bankruptcy filings. Ms. Hunt is expected to explain that failure to do so undermines the bankruptcy system. The government expects that Ms. Hunt will also explain that the trustees and the bankruptcy court expect to rely on the accuracy of the information provided by the debtor because the Petition, Schedules and Statement of Financial

Affairs are signed by the debtor under penalty of perjury and those documents are filed in federal court, and testimony under oath provided at the first meeting of creditors.

It is anticipated that Ms. Hunt will explain that in order for the bankruptcy system to function, it must rely on the debtor to be completely truthful about all of his assets and liabilities. She will explain how she places each debtor under oath at the first meeting of creditors and asks them to verify the truthfulness of the information contained in the statements and schedules and provides debtors the opportunity to amend their statements and schedules at the first meeting of creditors.

She will explain that the filing of a bankruptcy Petition creates an "estate" and the estate includes all the debtor's legal or equitable interests in property at the time the bankruptcy petition is filed. She will also explain that as the trustee she is responsible for selling property of the estate and distributing the proceeds to creditors of the debtor. She will additionally explain that a debtor is not allowed to sell or transfer any property of the estate without bankruptcy court approval.

Further, Ms. Hunt is expected to testify that a debtor has a duty to disclose all assets that might possibly be considered "property of the estate." It is anticipated that Ms. Hunt will explain that the determination of whether an asset is "property of the estate" is made by the trustee and the court, explain that a debtor must disclose all of his assets, even if the debtor: (1) is uncertain of the asset's status, or (2) believes that asset will not be considered "property of the estate."

Ms. Hunt is expected to explain the duties of a trustee in a chapter 7 are to collect and sell all of the property of the estate (subject to certain exemptions established by statute) in the liquidation process. She will explain how the liquidation process works and what happens if the

debtor does not disclose all of his assets on his Schedules and Statement of Financial Affairs.

C. Bases and Reasons in Support of Ms. Hunt's Opinion Testimony (Fed R. Evid. 703 & 705):

The basis of Ms. Hunt's opinions will be her review of all of the defendant's bankruptcy documents, including the Petition, supporting Schedules and Statement of Financial Affairs, and her review of the charges set forth in the Indictment, as well as her extensive experience and training as a bankruptcy trustee. The reasons for Ms. Hunt's opinion will be her knowledge of the duties of a trustee and a debtor in a chapter 7 proceeding, her review of the defendant's bankruptcy Petition and supporting Schedules and Statement of Financial Affairs, premised upon her extensive experience and training as an active bankruptcy trustee.

Dated this 6th day of May, 2019.

JOHN W. HUBER
United States Attorney

/s/ Cy H. Castle

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Peter Kuhn
Special Assistant United States Attorney



Peggy Hunt

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Overview

PEGGY HUNT HELPS PARTIES NAVIGATE COMPLEX BANKRUPTCY AND RECEIVERSHIP PROCEEDINGS.

Peggy Hunt has been working in the area of bankruptcy and receivership law for over 25 years. She currently co-chairs Dorsey's *Bankruptcy Practice Group* and is a Fellow in the *American College of Bankruptcy*. She serves as a Panel Chapter 7 trustee for the District of Utah and has represented distressed companies, banks and creditors, equity holders and Chapter 11 and 7 trustees in all aspects of the workout, restructuring and liquidating process, including in related litigation. Peggy serves as lead counsel to trustees and equity receivers appointed in some of the largest Ponzi and securities fraud cases in Utah, including *Castle Arch Real Estate Investment Company, LLC*, *National Note of Utah, LC*, and *Waterford Funding, LLC*. She serves as the court-appointed receiver for *Traffic Monsoon, LLC*.

Known for a pragmatic approach and a solid understanding of the judicial process gained through judicial clerkships served in trial and appellate courts, Peggy regularly speaks on topics involving bankruptcy and receivership law. She has been a member of the Bankruptcy Court Local Rules Committee, and she is a Contributing Author for the *Collier Bankruptcy Practice Guide*. A leader, Peggy currently serves on numerous professional and civic boards. She was appointed by Governor Gary Herbert as a Commissioner on the Utah Securities Commission. Peggy is also a member of the Utah Bar Foundation Board, the Government Relations Committee of the Federal Bar Association, and is a Past-President of the Utah Chapter of the Federal Bar Association.

Peggy is passionate about advancing the status of women and girls in Utah. She co-founded the Utah Women's Giving Circle of the Community Foundation of Utah and is a former President of Women Lawyers of Utah and of the Utah Women's Forum. Peggy currently sits on the Federal Bar Association's Task Force on Diversity.

Peggy is admitted to the Bar in Massachusetts, Utah and the Third, Fifth, Ninth and Tenth Circuits.



Experience

Representative Cases

Clients appreciate the technical expertise Peggy has developed during her years in private practice and her time clerking for both trial and appellate court judges. Among other things, she has served as lead attorney on the following matters:

Representative Cases

- *SEC v. Traffic Monsoon, LLC, and Charles Scoville* (D. Utah)
- *In re Castle Arch Real Estate Investment Company, LLC, et al.* (Bankr. D. Utah)
- *SEC v. National Note of Utah LC et al.* (D. Utah)
- *In re Waterford Funding, LLC et al.* (Bankr. D. Utah)
- *In re Copper King Mining Company* (Bankr. D. Utah)

Professional & Civic

Professional Achievements

- Commissioner, Utah Securities Commission
- Board of Directors, Utah Bar Foundation
- Member, Task Force on Diversity for the Federal Bar Association
- Co-Chair, 2017 Western Regional Conference of the Turnaround Management Association & Education Committee Co-Chair, 2015 and 2016 Western Regional Conferences
- Advisory Board, American Bankruptcy Institute Rocky Mountain Conference (2016 – present)
- Member, Board of the Utah Chapter of the Federal Bar Association; President (2014-2015)
- Member, Government Relations Committee of the Federal Bar Association
- Member, Tenth Circuit Education Committee, American College of Bankruptcy
- Education Committee, 2015 Annual Meeting of the National Association of Women Judges
- Faculty, 2015 Utah State Bar Litigation Section Trial Academy
- Founding Member, Mountain/Desert Network of the International Women's Insolvency & Restructuring Confederation
- Member, Risk Management Association
- Member, National Association of Bankruptcy Trustees
- Member, Bankruptcy, Securities and Litigation Sections of the Utah State Bar
- Member, Salt Lake County Bar Association
- Local Rules Committee, United States Bankruptcy Court, District of Utah (2008 - 2015)
- Past-President and *Ex Officio* Member of the Utah State Bar Commission, Women Lawyers of Utah (2009-2012)
- Chair, Delivery of Legal Services Committee of the Utah State Bar (1997–1998)
- Chair, Bankruptcy Section of the Utah State Bar (1995–1996)
- Board of Trustees, Utah Bankruptcy Lawyers' Forum, Inc. (1993–1997)

Community Involvement

- President, Utah Museum of Natural History Advisory Board
- Past-President, Utah Women's Forum (2017)



- Co-Founder, Women's Giving Circle of the Community Foundation of Utah; Chair (2011-2016)
- Chair, Leadership Committee, *And Justice for All* (2013-2016)
- Past-President, Board of Directors, The Sharing Place, Inc. (2009-2010)
- Selected Professions Fellowships Award Panel, American Association of University of Women (1998-2001)

Accolades

- Fellow, American College of Bankruptcy
- Listed in *Best Lawyers in America*® for Creditor-Debtor Rights Law, 2008-2019
- Named a *Best Lawyers*® *Lawyer of the Year*, Bankruptcy & Creditor Debtor Rights/Insolvency & Reorganization, 2017
- Listed as a Mountain States Super Lawyer, 2016-2018
- Selected as one of Utah's "Legal Elite" in Bankruptcy/Creditor Rights Law and Corporate Law by *Utah Business Magazine*, 2006-2019
- 1996 Utah State Bar *Pro Bono* Attorney of the Year

Education & Admissions

University of Pittsburgh School of Law (J.D., 1988), Head Notes and Comments Editor; *University of Pittsburgh Law Review*, 1987-1988

Washington and Jefferson College (B.A., Economics and Political Science, 1985)

Admissions

- Utah
- Massachusetts
- U.S. Court of Appeals for the Third, Fifth, Ninth, and Tenth Circuits

Clerkships

- Supreme Court of Connecticut, Hon. Robert J. Callahan, 1988-1989
- United States Bankruptcy Court for the District of Utah, Hon. Glen E. Clark, Chief Judge, 1989-1991
- United States Bankruptcy Appellate Panel of the Tenth Circuit, Hon. Glen E. Clark, Hon. Judith Boulden, and Hon. William T. Thurman, 1996-2005

Industries & Practices

- Banking & Financial Institutions
- Mining
- Energy & Natural Resources
- Appellate
- Bankruptcy & Financial Restructuring
- Food, Beverage & Agribusiness

News & Resources

Articles

Hot Topics in Bankruptcy, *printed in* Educational Materials for the Rocky Mountain Conference of the American Bankruptcy Institute
2019



Fraudulent Conveyance Law, Recent Developments, *printed in* Educational Materials for the Rocky Mountain Conference of the American Bankruptcy Institute

2018

Bankruptcy Court Opinion Clarifies California Law on Duties of Directors & Officers Upon Insolvency

May 10, 2016

Contributing Author, Collier Bankruptcy Practice Guide

1997-Present

News & Press Mentions

Twenty Dorsey Attorneys Named to Utah 'Legal Elite'

March 1, 2019

Dorsey Wins 13th Annual M&A Advisor Turnaround Award

December 21, 2018

Super Lawyers Recognizes 15 Dorsey Attorneys in Salt Lake City

June 11, 2018

Dorsey Partner Peggy Hunt Appointed to the Federal Bar Association Task Force on Diversity Committee

March 21, 2018

Seventeen Dorsey Attorneys Named to Utah 'Legal Elite'

February 22, 2018

Dorsey Partner Peggy Hunt Appointed to Utah Securities Commission

November 6, 2017

11 Dorsey Lawyers in Salt Lake City Selected for Inclusion in The Best Lawyers in America 2018 and 2018 Lawyers of the Year

August 15, 2017

Super Lawyers Recognizes 13 Dorsey Attorneys in Salt Lake City

June 15, 2017

Sixteen Dorsey Attorneys Named Utah Legal Elite

January 23, 2017

10 Dorsey Lawyers in Salt Lake City Selected for Inclusion in The Best Lawyers in America 2017 and 2017 Lawyer of the Year

August 15, 2016

SEC Freezes \$207 Million 'Pure Ponzi Scheme', Courthouse News Service

July 28, 2016

Dorsey Partner Peggy Hunt Named President of Utah Women's Forum

July 7, 2016

Super Lawyers Recognizes 14 Dorsey Attorneys in Salt Lake City

June 13, 2016

Fifteen Dorsey Attorneys Named Utah 'Legal Elite'

March 30, 2016

Dorsey Partners Peggy Hunt and Monica Clark Named Bankruptcy & Restructuring Group Co-Chairs



February 15, 2016

10 Dorsey Lawyers in Salt Lake City Selected for Inclusion in "The Best Lawyers in America®" 2016 and "Best Lawyers of the Year"

August 17, 2015

Dorsey Partner Peggy Hunt Elected to Utah Bar Foundation Board of Directors

June 17, 2015

Dorsey Partner Peggy Hunt Recognized by Utah Business Magazine

March 16, 2015

Dorsey Partner Peggy Hunt: A Champion of Education in Law

March 16, 2015

Dorsey Partner Peggy Hunt Inducted as an ACB Fellow

March 6, 2015

Dorsey Partner Peggy Hunt Named President-Elect of Federal Bar Association–Utah Chapter

December 8, 2014

Select Presentations

Recent Presentations

- Panelist, "Managing Time: Productivity, Time Management, and Billing," Women Lawyers of Utah Meeting, Salt Lake City, UT (April 16, 2019)
- Panelist, "Some Like It Hot: Topics and Rules Update," Rocky Mountain Conference of the American Bankruptcy Institute, Salt Lake City, UT (Jan. 24, 2019)
- Panelist, "Ethics + Civility Rules in Bankruptcy," Bankruptcy Section of the Utah State Bar, Salt Lake City, UT (Dec. 12, 2018)
- Panelist, "When the Court Takes Over: Equity Receivership 101," FBA Tri-State Seminar, Park City, UT (Sept. 21, 2018)
- Panelist, "Fraudulent Transfer Law Update," Rocky Mountain Conference of the American Bankruptcy Institute, Denver, CO (Jan. 27, 2017)
- Panelist, "How to Win Clients and Build Your Book of Business in Bankruptcy/Gender Issues," Annual Meeting of the Mountain Desert Network of the International Workout, Insolvency and Restructuring Confederation, Denver, CO (Jan. 26, 2017)
- Panelist, "Fiduciary Compliance with State and Federal Laws," Western Regional Conference of the Turnaround Management Association, Carlsbad, CA (July 14, 2016)
- Panelist, "One of the Parties in My Case Filed Bankruptcy! Now What?," Seminar for the Litigation Section of the Utah State Bar, Salt Lake City, UT (April 21, 2016)
- Panelist, "How Do Law Firms Retain Women and Why Does it Matter," Utah State Bar Mid-Year Meeting, St. George, UT (March 11, 2016)
- Panelist, "The New Bankruptcy Forms, Questions and Answers," Utah Bankruptcy Lawyers' Forum, Salt Lake City, UT (March 1, 2016)
- Panelist, "Insurance Issues in Bankruptcy," Rocky Mountain Conference of the American Bankruptcy Institute, Denver, CO (Jan. 21, 2016)
- Panelist, "What is a Ponzi: Proving a Ponzi and the Implications of a Ponzi Finding," 2015 Annual Meeting of the Federal Bar Association, Salt Lake City, UT (Sept. 10, 2015)



- Panelist, "*Role of the Financial Advisor / Ponzi Schemes*," Annual Bankruptcy and Restructuring Conference, Association of Insolvency and Restructuring Advisors, Denver, CO (June 6, 2014)